

### Draft Dangerous Waste Permit for Burlington Environmental, LLC

The Washington State Department of Ecology (Ecology) is proposing to modify the Burlington Environmental, LLC (Burlington) “PSC-Georgetown” facility permit. Burlington Environmental is a wholly-owned subsidiary of PSC Environmental Services, LLC (PSC) and the facility and site are referred to as PSC-Georgetown. Below we consistently refer to the present owner of the facility as PSC.

Ecology is proposing to modify the PSC-Georgetown permit so that it will reference a second State Model Toxics Cleanup Act (MTCA) Agreed Order. This change is categorized as a *Class III* permit modification.<sup>1</sup> The permit currently references a State Agreed Order for addressing cleanup in the **eastern** portion of the PSC-Georgetown site. Ecology’s proposed permit modification will add reference to a second, new, MTCA Agreed Order; this Order has been recently finalized to address cleanup needed in the **western** portion of the site.<sup>2</sup>

#### Brief Facility History

Hazardous/dangerous wastes were managed at the PSC-Georgetown facility located at 734 South Lucile Street in Seattle, Washington, until the facility closed in 2003.

In 1991, Ecology and the U.S. Environmental Protection Agency (EPA) jointly issued a permit to Burlington Environmental to treat and store hazardous/dangerous wastes at the 734 S. Lucile St. property. The identification number for the permit and facility was, and remains, WAD 00081 2909. The 1991 permit also included Resource Conservation and Recovery Act (RCRA) “corrective action” requirements and a schedule for meeting those requirements. The permit’s corrective action section was modified significantly in 2001 to update its requirements and schedule.<sup>3</sup>

The PSC-Georgetown facility closed as a hazardous/dangerous waste treatment and storage facility in 2003 and the property is not currently being used commercially<sup>4</sup>. However, releases from past operations at the facility, which included the storage of wastes and chemicals (solvents, petroleum, etc.) in underground storage tanks, have contaminated soils and groundwater.

Groundwater contamination has been detected beyond the facility property to the west and southwest, and in an area to the east and north owned by the Union Pacific Railroad company. As a result of this contamination, cleanup requirements are needed in the company’s permit and are proposed to be updated in the draft permit.

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<sup>1</sup> The Class III permit modification process began with PSC’s request to modify the existing permit. A 60-day public comment period followed, preceding Ecology’s decision on the proposed modification.

<sup>2</sup> The term “site” refers to an area at and beyond the former operating facility’s boundaries. The site includes areas within the Georgetown community where contaminants released from the facility have migrated and impacted groundwater to the west and southwest, and in an area to the east and north.

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<sup>3</sup> The 1991 permit expired in 2001. A new PSC-Georgetown permit was not issued until 2010, seven years after the facility discontinued operations. Although a new permit was not issued between 2001 and 2010, requirements in the “expired” permit remained in force during that time.

<sup>4</sup> The PSC-Georgetown facility is a secured property no longer used for business purposes. PSC uses the adjacent former White Satin Sugar facility for non-RCRA regulated activities and equipment storage.

In 2005, to better administer the corrective action required by the permit, Ecology divided the PSC-Georgetown site into two areas by a north-south delineation at 4<sup>th</sup> Avenue South. The East of 4<sup>th</sup> Area includes the area where the former operating facility is located. Contaminated groundwater west of 4<sup>th</sup> Ave. South is called West of 4<sup>th</sup> Area.

In 2010, although the facility had closed, Ecology issued a new permit to PSC to meet requirements for corrective action under Washington's Hazardous Waste Management Act (HWMA), Chapter 70.105 Revised Code of Washington (RCW), and its regulations. Washington's Dangerous Waste Regulations (Chapter 173-303 Washington Administrative Code (WAC)) require facilities that treat, store, or dispose of dangerous wastes to have a permit until all activities, including corrective actions and final closure, are completed (see page 6).

Neither the permit issued in 2010 nor the draft permit now available for public comment includes provisions for treatment, storage, or disposal of hazardous wastes. The permit is strictly a document establishing PSC's outstanding RCRA corrective action obligations at the site.

At the same time that the 2010 permit was issued, a State MTCA Agreed Order (#DE7347) was finalized, which contained specific requirements for the cleanup of site contamination east of 4<sup>th</sup> Ave. South. These requirements for corrective actions within the East of 4<sup>th</sup> Area are authorized by RCW 70.105.130 and .145 of the HWMA and RCW 70.105D.050(1) of MTCA.

Contaminated groundwater in the West of 4th area has also been impacted by releases from other local sources. Since 2008, this area has been the focus of remedial investigations being performed by three other potentially liable persons (PLPs) Art Brass Plating, Blaser Die Casting, and Capital Industries.<sup>5</sup>

The three PLPs, plus PSC, are now ready to jointly start the *feasibility study* stage and requirements for conducting that study are set out in a newly finalized, four-party West of 4<sup>th</sup> Agreed Order (#DE10402).

The draft PSC-Georgetown permit proposes to incorporate this new West of 4<sup>th</sup> Order by reference. Once the modification is finalized, then, the permit will incorporate by reference two Orders: one associated with the East of 4<sup>th</sup> area and one dedicated to the West of 4<sup>th</sup> area. Requirements in both Agreed Orders are enforceable conditions under the permit.

The groundwater east and west of 4<sup>th</sup> Avenue is contaminated with 1,4-dioxane. Contamination west of 4<sup>th</sup> Ave. is due to migration from areas farther east. The draft PSC-Georgetown permit proposes language clarifying how this contaminant will be addressed. Consistent with the 2014 West of 4<sup>th</sup> Order, the cleanup of 1,4-dioxane in both the east and west areas will be addressed under PSC's 2010 Agreed Order (#DE7347).

### Modified Permit's *Principal Facts*

A permit change to incorporate a cleanup order (issued pursuant to MTCA) results in a "draft permit." WAC 173-303-840, *Procedures for Decision Making*, describes the required contents of a draft permit's fact sheet under paragraph (2)(f). The fact sheet should "briefly set forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit." It should "briefly describe the derivation of the conditions of the draft permit and the reasons for them."

As noted above, a RCRA hazardous/dangerous waste management facility permit was initially issued in August 1991. The ten-year permit expired in 2001. A major modification of the permit's corrective action section (Section VII) occurred in the same year.

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<sup>5</sup> Each PLP has individually completed an RI pursuant to a MTCA order. None of these companies is an owner or

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operator of a RCRA hazardous/dangerous waste treatment, storage, or disposal facility.

As part of that modification, new corrective action requirements were introduced into the permit to carry the cleanup process to the Cleanup Action Plan stage. An updated cleanup schedule was included which contained enforceable due dates for Remedial Investigation, Feasibility Study, and Interim Action deliverables. New requirements for interim actions and financial assurance were also included. Although the 1991 permit expired in 2001, all of these requirements continued in effect, which obviated the need to issue a new permit containing the same corrective action requirements.

Shortly after the 1991 permit expired, PSC decided to close its hazardous/dangerous waste management operations at the Georgetown facility. Requirements in the “operating” portion of the company’s facility permit, therefore, were only necessary long enough to govern those management activities performed prior to closure. Operational closure was subsequently completed in 2003.

A new, corrective action-only permit for the facility and Agreed Order for addressing contamination in the eastern part of the site were issued in 2010.

The draft PSC-Georgetown permit now being provided to the public for comment references a new West of 4<sup>th</sup> Agreed Order. The Order contains cleanup requirements for the western part of the PSC-Georgetown site that begin with a feasibility study and culminate with the drafting of a Cleanup Action Plan. Once PSC and the other three PLPs named in the Order have completed a Feasibility Study Report and drafted a Cleanup Action Plan, these documents will be available for public review and comment. In addition, at that time a new Order or Consent Decree will be developed for implementing the West of 4<sup>th</sup> Cleanup Action Plan. This Order or Decree will also be provided to the public for comment before finalizing.

To summarize, then, corrective action (i.e., cleanup) at the PSC-Georgetown site is **currently** governed by three documents:

1. A permit that requires corrective action under a 2010 Agreed Order and its associated Cleanup Action Plan (CAP).
2. A 2010 MTCA Agreed Order. The Order requires that cleanup actions in the CAP be implemented to address the eastern portion of the site (the East of 4<sup>th</sup> Area).
3. A 2014 MTCA Agreed Order. The Order contains requirements for addressing the next cleanup stages in the western portion of the site (the West of 4<sup>th</sup> Area). PSC is one of 4 PLPs implementing this Order.

**Once finalized**, the permit will:

- a) continue to incorporate by reference the 2010 Agreed Order and CAP for the eastern portion of the site, and additionally,
- b) incorporate by reference the new four-party Agreed Order for the western portion of the site.

## Results of Issuing a Modified Permit

The modified permit Ecology is proposing does not allow any treatment, storage, or disposal of hazardous/ dangerous wastes at the PSC facility property. No new management activities are allowed in the draft permit. The permit and Orders it references are only required to establish corrective action (cleanup) obligations.

WAC 173-303-840(2)(f)(iii)(B) requires that a permit-modification fact sheet describe, when applicable, “the type and quantity of wastes, fluids, or pollutants, which are proposed to be or are being treated, stored, disposed, injected, emitted, or discharged.” No wastes or pollutants are treated, stored, or disposed of under the PSC-Georgetown permit, nor are wastes or pollutants injected.

The East of 4<sup>th</sup> cleanup action includes remedial elements that cause pollutant emissions, result in pollutant discharges, and inject fluids, but Ecology is not proposing modification of either Agreed Order #DE7347 or the current permit's reference to this Order. The proposed permit modification (draft permit) simply adds reference to a new West of 4<sup>th</sup> Agreed Order that governs the conduct of a 4-party West of 4<sup>th</sup> feasibility study. Ecology does not expect PSC to treat, store, dispose of, inject, emit, or discharge any wastes, fluids, or pollutants while carrying out the new Order's required feasibility study.

### Basis for Modified Conditions in the Permit

The draft PSC-Georgetown permit continues to contain limited conditions, most of them related to general RCRA authority provisions. The changes (additions) it proposes are needed to incorporate by reference a second Agreed Order, establishing PSC's cleanup obligations for the West of 4<sup>th</sup> Area of the site.

Together with requirements in the 2010 East of 4<sup>th</sup> Order, these cleanup-related requirements are necessary to protect human health and the environment and further the completion of site cleanup. No "operating" requirements are included in the draft permit; PSC no longer manages hazardous/ dangerous wastes at its Georgetown facility.

As noted above, the draft permit also proposes language clarifying that the cleanup of 1,4-dioxane in groundwater east and west of 4<sup>th</sup> Ave. S. will be addressed under PSC's 2010 Agreed Order. This is consistent with the terms of the 2014 West of 4<sup>th</sup> Agreed Order. 1,4-dioxane contamination in groundwater west of 4<sup>th</sup> Ave S. appears to have resulted from a source located east of 4<sup>th</sup> Ave.

The cleanup requirements contained in the PSC-Georgetown draft permit, the company's 2010 Order, and the new 4-party "West of 4<sup>th</sup>" Order have been chosen based on existing site conditions and the status of the site cleanup process.

They are supported by documents on file at Ecology's Northwest Regional Office, and constitute the Administrative Record for Ecology's proposed decision.

The documents of primary interest include:

- The 2010 PSC-Georgetown hazardous/ dangerous waste management permit
- The 2010 PSC-Georgetown "East of 4<sup>th</sup>" Agreed Order and attached Cleanup Action Plan (CAP).
- The September 2011 PSC-Georgetown "East of 4<sup>th</sup>" Engineering Design Report, describing how remedial actions in the CAP are to be designed and implemented.
- The January 2013 "PSC Area" Cleanup Implementation Report.
- The July 2013 "Argo Yard Area" Cleanup Implementation Report.
- PSC-Georgetown 2011, 2012, and 2013 quarterly monitoring reports (submitted by the company each February, May, August, and November)<sup>6</sup>.
- Art Brass Plating's September 2012 Remedial Investigation Report (conditionally approved on December 18, 2012).
- Blaser Die Casting's August 2012 Remedial Investigation Report (conditionally approved on October 2, 2012).
- Capital Industries' October 2012 Remedial Investigation Report (conditionally approved on December 18, 2012).
- The 2014 West of 4<sup>th</sup>" Agreed Order, issued to PSC, Art Brass Plating, Blaser Die Casting, and Capital Industries.

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<sup>6</sup> These quarterly reports have been submitted for many years. Reports submitted over the last ten years show contaminant concentrations associated with PSC monitoring wells located between Airport Way and the Duwamish Waterway.



## Public Notice

On January 14, 2014, PSC initiated a 60-day public comment period to propose modifications to its Georgetown facility permit. The company's proposed modifications essentially revise the permit to include, by reference, a new State cleanup Order.

Following the close of the 60-day public comment period, Ecology reviewed PSC's permit modification request and all public comments we received on that request. We agree with the company that the facility permit should be modified. Because the modification the company is seeking is categorized as a Class III modification, Ecology is required to prepare a new "draft permit" that reflects the changes we believe should be made to the 2010 document.

Ecology's Public Notice for the proposed permit modification (draft permit) is attached to this fact sheet. As required by WAC 173-303-840(4), the Notice includes:

- Beginning and end dates for the public comment period.
- The address where comments should be sent.
- Procedures for requesting a public hearing.
- A description of the procedures for reaching a final decision on the draft permit and ways the public may participate in the final decision.
- Contacts for additional information.

Copies of the Public Notice have been mailed to PSC, individuals on the PSC-Georgetown facility mailing list, and those persons and agencies described in WAC 173-303-840(3)(e)(i).

*NOTE: Ecology will send the Notice and Fact Sheet to any other person upon request.*

Ecology's contact for the draft permit is:

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## Additional Information

### *Why a permit and an Order?*

#### **State and Federal Authorities for Permits and Corrective Action**

EPA issued federal requirements for facilities that manage hazardous waste or conduct corrective action. The Solid Waste Disposal Act, amended by RCRA and the Hazardous and Solid Waste Amendments of 1984 (HSWA), and the regulations promulgated thereunder in Title 40 of the Code of Federal Regulations (CFR), regulate the management of hazardous waste nationwide.

On January 31, 1986, Ecology received final authorization from EPA for the state's hazardous waste program. The state's program also received approval for subsequent revisions to this federal program. Ecology adopted additional federal requirements that became effective June 10, 2000.

Therefore, in Washington, both EPA and Ecology regulate hazardous waste. Washington regulates more wastes than EPA, and Washington-regulated wastes are called *dangerous wastes*.

The Hazardous Waste Management Act (Chapter 70.105 RCW), and the Dangerous Waste Regulations (Chapter 173-303 WAC) regulate the management of dangerous waste in Washington. WAC 173-303-800 specifies that facilities must obtain a permit to treat, store, or dispose of dangerous waste.

Under the requirements of WAC 173-303-64610 *et seq.*, facilities must have a permit to address corrective action (i.e., cleanup) in their permit. Facilities that no longer treat, store, or dispose of dangerous waste, but have had historic releases from solid waste management units, must also have a permit to conduct corrective action.<sup>7</sup>

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<sup>7</sup> So, although all former dangerous waste management units at the PSC-Georgetown facility have now been "surface" clean-closed, the facility is still required to have a permit to conduct and complete corrective action (remediate contamination caused by the releases).

EPA authorized the state's hazardous waste corrective action program on November 4, 1994. Under the federally-authorized program, an Order or other administrative mechanism incorporating Washington State's cleanup authority, MTCA, is considered to be part of the authorized corrective action program. However, the Order or other administrative mechanism must be incorporated into an existing permit, or issued simultaneously with and incorporated by reference into a new dangerous waste permit.

In other words, any Order or other administrative mechanism issued to a facility incorporating MTCA requirements is not considered part of the EPA-authorized corrective action program unless the Order or other administrative mechanism is incorporated directly into a permit. This process of placing specific cleanup requirements into an order has been used to save time and resources, and simplify the decision process.

Permits issued under Washington's authorized program are enforceable by both Ecology and EPA. However, terms of Agreed Orders or administrative mechanisms that go beyond the scope of the authorized program are considered broader in scope and are not enforceable by EPA. Ecology can impose these requirements under state laws or enforce them in lawfully issued orders, other administrative mechanisms, or permits.

Any substantial changes to Agreed Orders, once finalized, require a public comment period under the MTCA WAC 173-340 cleanup regulations. Modification to the permit, as required by the Dangerous Waste Regulations, may also be necessary.

### ***What if the regulations change?***

#### **Changes to RCRA or RCRA Rules under the Hazardous and Solid Waste Amendments**

In general, new or amended requirements in the federal Hazardous and Solid Waste Amendments of 1984 and related regulations will apply automatically to PSC-Georgetown facility's corrective action activities (as applicable). The exception is for new requirements that are less stringent than those in effect when the permit was issued.

*If you require special accommodations or need this document in a version for the visually impaired, call the Hazardous Waste and Toxics Reduction Program at 360-407-6700. Persons with hearing loss, call 711 for Washington Relay Service. Persons with a speech disability, call 877-833-6341.*